HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No.1150 of 2006

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Between:

A.Kalvathi and ten others

……Appellants

And

Special Chief Secretary to the Government,
Government of Andhra Pradesh, Secretariat,
Hyderabad and another

……Respondents

:: JUDGMENT ::

Counsel for the Appellants : Shri B.Venkat Rama Rao

Counsel for the Respondents : Government Pleader for Land Acquisition

November 06, 2006

Per G.S. SINGHVI, CJ

This appeal is directed against order dated 14-08-2006 passed by the learned Single Judge in Writ Petition No.16765 of 2006, whereby he rejected the appellants challenge to notification dated 19-06-2006 issued under Section 4(1) read with Section 17(4) of the Land Acquisition Act, 1894 (for short, 'the Act') for acquisition of their lands for Devathalagutta Rifle Range for DMRL and consequential proceedings taken under Sections 9 and 10 of the Act.

In the writ petition filed by them, the appellants challenged the acquisition notification and consequential proceedings on several grounds including the one that enquiry envisaged under Section 5-A of the Act could not have been dispensed with by invoking the urgency clause because the purpose for which the lands were sought to be acquired, viz., establishing Rifle Range for DMRL was also specified in the acquisition proceedings initiated in 1992-93, which were not pursued by the respondents.

The learned Single Judge dismissed the writ petition without even requiring the respondents to file counter affidavit. He did not advert to the averments contained in paragraph 6 of the affidavit of A. Narasimha Reddy (appellant No.2), but presumed that there was urgency for invoking Section 17(4) of the Act and held:

> "When the highest authority of the Government of the State considers material placed before it, and on subject to satisfaction decides to dispense with the enquiry under Section 5-A of the Act, an argument that there was no material before the authority cannot be heard. There is always presumption that all the Government actions are taken legitimately for valid purpose in accordance with law. On mere conjunctures or unsubstantiated

allegations, inference cannot be drawn that there was no material before the first respondent."

We have heard learned counsel for the appellants and the learned Government Pleader for Land Acquisition.

At the hearing, learned Government Pleader for Land Acquisition fairly stated that the procedure prescribed under Section 5-A of the Act could not have been dispensed with for the purpose of acquiring the land of the appellants and gave out that the respondents will now hold enquiry under Section 5-A, give reasonable opportunity to the appellants and other aggrieved persons to file their objections and then take final decision in the matter of acquisition of their land.

In view of the statement made by the learned Government Pleader for Land Acquisition, we do not consider it necessary to deal with and decide on merits the appellants' challenge to notification dated 19.06.2006 and feel that ends of justice would be met by setting aside the order of the learned Single Judge with liberty to the respondents to hold enquiry in terms of Section 5-A of the Act and take appropriate decision in the matter of acquisition of the land belonging to the appellants.

In the result, the appeal is allowed. The order of the learned Single Judge is set aside and proceedings taken by the respondents after issue of notification under Section 4(1) of the Act are quashed. However, liberty is given to the competent authority to hold enquiry under Section 5-A of the Act and take final decision, after giving reasonable opportunity to the appellants and other landholders to submit objections. If the appellants and other objectors request for personal hearing, then the competent authority shall afford them such hearing before taking final decision.

As a sequel to allowing the appeal, WAMP No.2407 of 2006

filed by the appellants for interim relief is disposed of as infructuous.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY, J

06-11-2006
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